

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1272-WOC-E TCEQ ID: RN103329181 CASE NO.: 34403
RESPONDENT NAME: CESAR VASQUEZ

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITES WHERE VIOLATIONS OCCURRED: 12501 Montana Avenue, 718 South Florence Street, 600 East Overland Avenue, 721 South Ochoa Street, 700 Ochoa Street, 1501 Mescalero Drive, and 1505 Mescalero Drive, El Paso, El Paso County</p> <p>TYPE OF OPERATION: Backflow prevention assembly testing business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint has been received. The complaint alleged that the Respondent conducted backflow prevention assembly testing with an expired license and that he conducted these tests using another person's name and license number. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 20, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Terry McMillan, El Paso Regional Office, MC R-6, (915) 834-4953</p> <p style="margin-left: 20px;">Respondent: Mr. Cesar Vasquez, 9701 Carnegie Avenue, Suite F and 337 Hourglass Drive, El Paso, Texas 79925</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: June 1, 2007</p> <p>Dates of Investigation Relating to this Case: June 27 – July 11, 2007</p> <p>Date of NOE Relating to this Case: July 19, 2007</p> <p>Background Facts: The EDPRP was filed on May 1, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on May 3, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not renewed his backflow prevention assembly tester license.</p> <p>WOC: Failed to hold a backflow prevention assembly tester ("BPAT") license prior to conducting tests of reduced pressure zones and failed to comply with BPAT requirements by the unauthorized use of a license of someone else who possesses a current BPAT license [30 TEX. ADMIN. CODE § 30.5(a) and (b) and TEX. WATER CODE § 37.003].</p>	<p>Total Assessed: \$1,750</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$1,750</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease conducting backflow prevention assembly tests until properly licensed and cease unauthorized use of someone else's license. 2. Within 15 days, submit written certification and detailed supporting documentation to demonstrate compliance with the Ordering Provision above.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	1-Oct-2007	Screening	1-Oct-2007	EPA Due	
	PCW	11-Mar-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Cesar Vasquez		
Reg. Ent. Ref. No.	RN103329181		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34403	No. of Violations	1
Docket No.	2007-1272-WOC-E	Order Type	1660
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Shontay Wilcher
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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Total EB Amounts	\$23	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$450	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$1,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,750
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$1,750
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Screening Date 1-Oct-2007

Docket No. 2007-1272-WOC-E

PCW

Respondent Cesar Vasquez

Policy Revision 2 (September 2002)

Case ID No. 34403

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN103329181

Media [Statute] All Occupational Licenses

Enf. Coordinator Shontay Wilcher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 1-Oct-2007		Docket No. 2007-1272-WOC-E		PCW
Respondent Cesar Vasquez		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 34403		<small>PCW Revision September 19, 2007</small>		
Reg. Ent. Reference No. RN103329181				
Media [Statute] All Occupational Licenses				
Enf. Coordinator Shontay Wilcher				
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 30.5(a), 30.5(b), and Tex. Water Code § 37.003			
Violation Description	<p>Failed to hold a backflow prevention assembly tester ("BPAT") license prior to conducting tests of reduced pressure zones. Specifically, the Respondent conducted backflow prevention assembly tests at 12501 Montana Avenue, 718 South Florence Street, 600 East Overland Avenue, 721 South Ochoa Street, 700 Ochoa Street, 1501 Mescalero Drive, and 1505 Mescalero Drive in El Paso, El Paso County, Texas without holding a BPAT license. The Respondent's license expired on December, 20, 2005. Also, failed to comply with BPAT requirements by the unauthorized use of a license of someone else who possesses a current BPAT license.</p>			
Base Penalty				<input type="text" value="\$2,500"/>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>			
Adjustment				<input type="text" value="\$2,250"/>
				<input type="text" value="\$250"/>
Violation Events				
Number of Violation Events		<input type="text" value="7"/>	<input type="text" value="96"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
				Violation Base Penalty <input type="text" value="\$1,750"/>
<input type="text" value="Seven single events (one per location) are recommended."/>				
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$23"/>			Violation Final Penalty Total <input type="text" value="\$1,750"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,750"/>	

Economic Benefit Worksheet

Respondent Cesar Vasquez

Case ID No. 34403

Reg. Ent. Reference No. RN103329181

Media All Occupational Licenses

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$450	27-Jun-2007	27-Jun-2008	1.0	\$23	n/a	\$23
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a BPAT License. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$450

TOTAL

\$23

Compliance History

Customer/Respondent/Owner-Operator:	CN601849763	VASQUEZ, CESAR	Classification:	Rating:
Regulated Entity:	RN103329181	VASQUEZ, CESAR	Classification:	Site Rating:
ID Number(s):				
Location:	337 HOURGLASS DR EL PASO, TX 79915			
TCEQ Region:	REGION 06 - EL PASO			
Date Compliance History Prepared:	November 1, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 1, 2002 to November 1, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Shontay Wilcher		Phone:	(512) 239-2136

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CESAR VASQUEZ;
RN103329181

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2007-1272-WOC-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Cesar Vasquez ("Mr. Vasquez").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Vasquez owns and operates a backflow prevention assembly testing business located at 337 Hourglass Drive, El Paso, El Paso County, Texas (the "Business").
2. Mr. Vasquez repairs and/or tests the installation or operation of backflow prevention assemblies. Therefore, Mr. Vasquez is subject to TCEQ jurisdiction pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 37, and 30 TEX. ADMIN. CODE ch. 30.
3. During an investigation conducted on June 27, 2007 through July 11, 2007, a TCEQ El Paso Regional Office investigator documented that Mr. Vasquez failed to hold a backflow prevention assembly tester ("BPAT") license prior to conducting tests of reduced pressure zones. Specifically, Mr. Vasquez conducted BPAT tests at 12501 Montana Avenue, 718 South Florence Street, 600 East Overland Avenue, 721 South Ochoa Street, 700 Ochoa Street, 1501 Mescalero Drive, and 1505 Mescalero Drive in El Paso, El Paso County, Texas without holding a BPAT license. Mr. Vasquez's license expired on December, 20, 2005. Also, Mr. Vasquez failed to comply with BPAT requirements by the unauthorized use of a license of someone else who possesses a current BPAT license.
4. Mr. Vasquez received notice of the violations on or about July 24, 2007.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Cesar Vasquez" (the "EDPRP") in the TCEQ Chief Clerk's office on May 1, 2008.
6. By letter dated May 1, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Vasquez with notice of the EDPRP. According to the return receipt "green card," Mr. Vasquez received notice of the EDPRP on May 3, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Vasquez received notice of the EDPRP, provided by the Executive Director. Mr. Vasquez failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Vasquez is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Vasquez failed to hold a BPAT license prior to conducting tests of reduced pressure zones and failed to comply with BPAT requirements by the unauthorized use of a license of someone else who possesses a current BPAT license, in violation of 30 TEX. ADMIN. CODE § 30.5(a) and (b) and TEX. WATER CODE § 37.003.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Vasquez with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Vasquez failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Vasquez and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Vasquez for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of one thousand seven hundred fifty dollars (\$1,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Vasquez is assessed an administrative penalty in the amount of one thousand seven hundred fifty dollars (\$1,750.00) for violations of the TEX. WATER CODE ch. 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Vasquez's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Cesar Vasquez; Docket No. 2007-1272-WOC-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Vasquez shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Vasquez shall cease conducting backflow prevention assembly tests until properly licensed and cease unauthorized use of someone else's license, in accordance with the requirements of 30 TEX. ADMIN. CODE § 30.5.
 - b. Within 15 days after the effective date of this Order, Mr. Vasquez shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No.

2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Vasquez shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Terry McMillan, Water Section Manager
Texas Commission on Environmental Quality
El Paso Regional Office
401 East Franklin, Suite 560
El Paso, Texas 79901-1206

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Vasquez. Mr. Vasquez is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
5. If Mr. Vasquez fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Vasquez's failure to comply is not a violation of this Order. Mr. Vasquez shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Vasquez shall notify the Executive Director within seven days after Mr. Vasquez becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Vasquez shall be made in writing to the Executive Director. Extensions are not effective until Mr. Vasquez receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Vasquez if the Executive Director determines that Mr. Vasquez has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA M. COX

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Anna M. Cox. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Cesar Vasquez" (the "EDPRP") was filed with the Office of the Chief Clerk on May 1, 2008.

The EDPRP was mailed to Mr. Vasquez at his last known address on May 1, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Vasquez received notice of the EDPRP on May 3, 2008, as evidenced by the signature on the card.

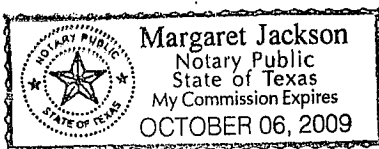
More than 20 days have elapsed since Mr. Vasquez received notice of the EDPRP. Mr. Vasquez failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

Anna Cox

Anna M. Cox, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Cox, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11 day of June, A.D., 2008.



Margaret Jackson

Notary Signature